

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Create a
Consistent Regulatory Framework for the
Guidance, Planning and Evaluation of
Integrated Distributed Energy Resources.

Rulemaking 14-10-003
(Filed October 2, 2014)

**REPLY COMMENTS OF SOLARCITY CORPORATION ON THE COMPETITIVE
SOLICITATION FRAMEWORK WORKING GROUP FINAL REPORT**

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August 31, 2016

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Pursuant to the *Joint Assigned Commissioner and Administrative Law Judge Ruling and Amended Scoping Memo*, issued on February 26, 2016, SolarCity Corporation (SolarCity) respectfully submits these reply comments on the Competitive Solicitation Framework Working Group (CSFWG) Final Report, submitted on August 1, 2016.

II. INTRODUCTION

In the reply comments below, SolarCity offers its perspective regarding a number of issues raised by other stakeholders in their opening comments.

III. DISCUSSION

a. Market Participants Can Bring Valuable Insight to the Distribution Planning Advisory Group.

SolarCity respectfully disagrees with a number of parties including Pacific Gas and Electric (PG&E), Southern California Edison (SCE) and the Coalition of California Utility Employees (CUE) that argue that market participants (MPs), like distributed energy resource (DER) solution providers, should not be allowed to participate in the Distribution Planning Advisory Group (DPAG). The rationales for this are varied, but can generally be distilled to the view that if allowed to participate, these entities will attempt to tilt the playing field to their advantage by arguing that there are significant needs on the system which non-utility DER solution providers are positioned to address. This argument is a double-edged sword. To be clear,

currently a single set of market participants with a vested interest in the outcome is allowed to participate in the DPAG, namely the utilities. We have concerns that absent some level of non-utility MP participation to balance things, the utilities will drive the recommendations of the DPAG to favor traditional solutions to the detriment of ratepayers and non-utility DER solution providers.

Indeed, in addition to the work of the CSFWG, an issue the instant proceeding is currently grappling with is how to address the bias in utility decision-making that favors utility owned solutions. In light of this, we think that opening the DPAG to some level of MP involvement would be beneficial to the process by offering a counterweight, in addition to the views of non-market participants, to the utilities' perspective. MPs can bring an additional level of technical sophistication to these discussions that may be more complete than that of non-market participants, including detailed understanding of the capabilities of DER solutions.

That said, we agree that not all envisioned activities of the DPAG are necessarily appropriate for MP participation. Anything related to reviewing bids, shortlisting of projects, or anything where the MPs have a direct conflict of interest should not involve MPs. However, those activities that fall more squarely within the scope of distribution planning and ultimately into a need determination, should be expressly open to MP participation. SolarCity believes that more systematic dialogue around this issue should be pursued, with the specific activities of the DPAG more clearly enumerated and ultimately a determination should be made regarding what entities are allowed to participate in each of those activities. These discussions and the roles and responsibilities of the DPAG are probably more appropriately had in the Distribution Resources Plans (DRP) proceeding given the explicit inclusion of distribution planning in the DRP scope.

b. SolarCity Agrees that DRP Demonstrations C and D Provide a Near-Term Opportunity to Gain Practical Experience with DER Solicitations.

In its comments, San Diego Gas & Electric (SDG&E) indicates that the utility believes that DRP Demonstrations C and D provide an opportunity to gain experience conducting solicitations for DER services. SolarCity strongly agrees with this perspective and believe there would be value in seeking to incorporate the learnings gained from those solicitations into the efforts of the CSFWG.

There is some irony in SDG&E's strong support for using the demonstrations in the DRP as a vehicle to gain experience with solicitations for DER services given the central role of

utility-owned assets that SDG&E is currently envisioning, particularly with respect to Demonstration C. In that demonstration project, SDG&E has earmarked \$4.6 million for purchasing and deploying utility-owned storage assets.¹ At this point, it is unclear to what extent SDG&E intends to pursue solicitations for services from third parties as part of the utility's Demonstrations C and D.

c. SDG&E's Arguments Opposing the Utilization of Tariffs and Incentive Programs To Source DER Services Should be Rejected.

SDG&E asserts that tariffs and incentive programs are inferior sourcing mechanisms for DER services relative to contractual commitments obtained via a solicitation. Therefore, SDG&E argues, these should not be relied upon as a means to procure DER services, stating "Implementing DER via incentives and tariffs could threaten the reliability of the distribution system due to the utility's limited or nonexistent ability to monitor and enforce DER performance."²

As an initial matter, Commissioner Florio made clear during his opening remarks at the March 28, 2016 workshop that the role of tariffs and programs merits further exploration in this proceeding, stating "[Parties would] like assurance this proceeding will consider sourcing options beyond competitive solicitations. Parties should be so assured." Given these remarks and the preference to consider these sourcing mechanisms during a later phase of the proceeding, SDG&E's comments appear to be in conflict with Commissioner Florio's assurance.

That notwithstanding, SolarCity strongly disagrees with SDG&E's broad generalization. SDG&E's argument ignores the ability to include conditions and performance requirements as part of a tariff or incentive program. The primary element that distinguishes a tariff or incentive program from a solicitation is that tariffs and incentive programs tend to have pricing, conditions, performance or eligibility requirements that are "one size fits all." Additionally, tariffs and programs have typically been made available system-wide rather than targeting a specific area. In contrast, solicitations typically involve a more specific need and some level of bilateral negotiation on terms leading to a more tailored contractual agreement.

¹ Evidentiary Hearings Transcript, Vol. 1 August 10, 2016, R.14-08-013, p. 119, lines 3-12.

² Comments on Competitive Solicitation Framework Working Group Final Report of San Diego Gas & Electric Company, August 22, 2016, p.7.

That said, nothing inherently precludes a utility or the Commission from establishing tariffs or incentive programs that have more specific performance obligations and penalties for non-performance. For example, in the Self Generation Incentive Program, the Commission issued Resolution E-4717 which imposed very specific performance obligations on residential storage systems to ensure those systems are not used for back-up only.

To the degree SDG&E is referring to the reliance on financial incentives to drive operational decisions where there is no express obligation to perform, we agree that less certainty can be ascribed to the level of service that will ultimately be provided. However, that is altogether different than suggesting that such approaches should be effectively deemed as providing no service at all, as SDG&E appears to be suggesting. This is akin to assuming that as-available renewable resources offer zero capacity value, a position the Commission has rejected via the establishment of a methodology that is specifically intended to account for the uncertainty regarding the amount of capacity that intermittent resources can be reasonably assumed to provide during peak hours for resource adequacy counting purposes.³

Similarly, in the context of DERs, a more probabilistic approach may be appropriate whereby the level of service assumed to be received from systems that are operating under tariffs or incentive programs where there is no express obligation to perform is discounted to account for the voluntary nature of the response. The level of voluntary response that can be reasonably anticipated from systems operating under less stringent performance obligations can then be factored into determining the level of service that needs to be procured via solicitations and bilateral negotiations. SolarCity has articulated this conceptual approach in more detail in the white paper “Integrated Distribution Planning”.⁴

d. Contingency Planning Associated with DER Under-Performance Should Allow an Opportunity to Cure and/or Consider Other Cost Effective DER Solutions.

In their comments the utilities each raise concerns regarding contingency planning in the event of DER under-performance. SolarCity agrees that this is an important issue that will need to be fully addressed as part of any robust distribution planning and sourcing process. However, we share the perspective of Vote Solar that contingency planning allows for the vendor to

³ See, i.e., D.09-06-028.

⁴ “Integrated Distribution Planning”, SolarCity, p. 9. Available at <http://www.solarcity.com/company/distributed-energy-resources>.

resolve the underperformance and consider other DER solutions before moving forward with a conventional wires solution.⁵ To address this, the timeline and process for sourcing DER solutions should provide developers with under-performing contracts an opportunity to cure any deficiency, and failing that, other DER solutions, to the extent they remain cost effective, should be considered. Only after these steps have been taken should any decision be made to move forward with the conventional wires solution.

e. There is a Recognized Need to Provide a Clearer Delineation Between the DRP and IDER.

A number of parties, including PG&E, SCE as well as SolarCity, commented directly on or alluded to the need to provide greater clarity in terms of what issues are being addressed in the DRP proceeding and the IDER proceeding, respectively. Though initially established to focus on issues that relate to the solicitation process to source DERs to address needs identified via the planning process under development in the DRP proceeding, extensive time was spent in the IDER proceeding discussing activities or concepts that are more appropriately considered planning issues.

SolarCity believes that any issue related to the planning process and the determination of need should be addressed in the DRP proceeding, not in the IDER proceeding. The IDER proceeding should focus exclusively on how to source DERs that will then be used to address a given need. While some overlap is perhaps inevitable, given that many of the participants in the DRP and its associated working groups are the same as those participating in the IDER and the CSFWG, we think some additional discipline may be helpful to keep the conversation and resources focused in the IDER proceeding and avoid unnecessary duplication and confusion.

f. Given the Changing Energy Landscape, There May be a Need to Revisit the Determinations of D.06-06-066 Regarding Data Access.

SCE argues that issues around data access and confidentiality were addressed in D.06-06-066 and thus there is no need to re-litigate these issues.⁶ SolarCity disagrees. It has been more than decade since this decision was issued. In that time frame the views of the Commission and

⁵ Vote Solar Comments on Competitive Solicitation Framework Working Group Final Report, Aug. 17, 2016, pp. 3-4.

⁶ Southern California Edison Company's Comments on Competitive Solicitation Framework Working Group Final Report, August 22, 2016, p. 13.

stakeholders have evolved substantially in terms of the role of DERs in addressing system needs. Recognizing these fundamental changes we believe it is incumbent upon the Commission to consider the issue of data access anew, particularly given the essential role of data access if the Commission hopes to fully unlock the potential value that DERs can provide. While many of the existing determinations around data may ultimately hold, it is important that discussion regarding data access continue and not be cut short because of a related 2006 decision. The Commission has the authority to revisit these earlier determinations and should not view the prior decision as binding on how it approaches these issues in the context of the DRP or IDER proceeding.

g. SolarCity Supports Continued Efforts to Develop a Technology-Neutral Pro-Forma Contract.

SolarCity was pleased to read SCE's conceptual support for developing a technology neutral pro-forma contract. As expressed in our opening comments, we believe technology neutrality is critical in the DRP context given the myriad resources that can be deployed and aggregated to address a given need. The utilities should be indifferent to the composition of the portfolio provided it is able to reliably deliver the services the DER provider is obligated to provide. This flexibility should be baked into the contracts to the greatest extent practicable. We agree with SCE that additional work is needed to accomplish this.

The working group discussed two areas where the tracking of a DER solution is necessary: in the deployment phase to provide assurance that a solution is on schedule to serve the identified need, and in the delivery of the contracted service to verify performance.

Historically the utilities have dealt with different resources as discrete solutions and developed technology-specific approaches as a result. If priority were given to creating frameworks to accommodate portfolios of technologies with unknown composition, SolarCity believes that it would be possible to develop something more flexible. Instead of tracking deployment through technology-specific milestones, deployment could be tracked through interim performance checks. Measurement and verification practices could be adapted to be compatible and consistent across technologies. We would also support SCE's suggestion that "[for] the purpose of procuring DERs for distribution deferral purposes in a technology neutral

manner...the M&V [measurement and valuation] plan should be allowed to be based on actual load reduction or generation.”⁷

We encourage the Commission to convene the CSFWG, or a subgroup thereof, to continue to discuss and develop a technology-agnostic contracting approach over the next four to six months, focusing specifically on how progress and performance of a resource portfolio can be evaluated without regard to the underlying technology providing the service.

IV. CONCLUSION

SolarCity appreciates the opportunity to submit these reply comments.

Respectfully submitted at San Francisco, California on August 31, 2016,

BY: /s/

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⁷ *Id.* p. 15.